

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE: CAPACITORS ANTITRUST
LITIGATION

MASTER FILE NO. 14-cv-03264-JD

THIS DOCUMENT RELATES TO:
ALL INDIRECT PURCHASER ACTIONS

[PROPOSED] ORDER APPROVING
MOTION TO APPROVE PROGRAM TO
PROVIDE CLASS NOTICE AND TO SET
SCHEDULE FOR FINAL APPROVAL

[PROPOSED] ORDER APPROVING MOTION TO APPROVE PROGRAM TO
PROVIDE CLASS NOTICE AND TO SET SCHEDULE FOR FINAL APPROVAL

1 On October 6, 2016 Indirect Purchaser Plaintiffs (“IPPs”) filed a Motion to Approve
2 Program to Provide Class Notice and to Set Schedule for Final Approval of proposed settlements
3 with NEC TOKIN, Nitsuko, and Okaya. (Dkt. No. 1306). On October 14, 2016, the Court held a
4 preliminary approval hearing and gave the parties comments concerning the motion to approve
5 certain settlements. On October 17, 2016, the Court issued a minute order reflecting that hearing
6 (Dkt. No. 1348). On November __, IPPs submitted a supplemental memorandum of law (Dkt. No.
7 __) and the supplemental declarations of Steven N. Williams (Dkt. No. __) and Linda V. Young
8 (Dkt. No. __). The Court, having reviewed all filings concerning this motion, the pleadings and
9 other papers on file in this action, and the statements of counsel and the parties, hereby finds that
10 the motion should be GRANTED.

12 NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

- 13 1. The Court approves the form of the Short-Form Notice attached hereto as Exhibit A
14 (“Short-Form Notice”). The Court also approves the form of the Long-Form Notice
15 attached hereto as Exhibit B (“Long-Form Notice”). The Court finds that taken
16 together, mailing the Short-Form Notice by U.S. Mail to those addresses of class
17 members that are available to IPP counsel, together with publication of the Short-Form
18 Notice, and internet posting of the Long-Form Notice are: (i) the best notice practicable;
19 (ii) reasonably calculated to, under the circumstances, apprise members of the
20 settlement classes of the proposed settlements and of their right to object or to exclude
21 themselves as provided in the settlement agreements; (iii) reasonable and constitute due,
22 adequate and sufficient notice to all persons entitled to receive notice; and (iv) meet all
23 applicable requirements of due process and any other applicable requirements under
24 federal or state law.

- 25 2. IPPs’ notice provider shall provide notice of the class settlement. The notice provider

shall provide direct notice of the settlement to all members of the settlement class for whom they can reasonably obtain email addresses on or before January 16, 2017.

3. IPPs' notice provider shall publish the Short-Form Notice in Publication of notice in general-market publications and trade magazines. Published notice will run in *The Wall Street Journal*, *Electronic Design*, and *Nuts and Volts*.
 4. IPPs' notice provider shall provide email notice through email "blasts". An email blast will be sent to opt-in subscribers of the following publications:

- a. Penton Publications (including the websites Electronicdesign.com, machinedesign.com, sourceesb.com, mwrf.com, powerelectronics.com, and HydraulicsPneumatics.com.).

b. EE Times.

5. IPPs' notice provider shall cause banner ads to be placed on the following websites:

c. Electronicdesign.com

d. Machinedesign.com

e. SourceESB.com

f. Mwrf.com (Microwaves and RF)

g. Powerelectronics.com

h. HydraulicsPneumatics.com

i. Nutsvolts.com

j. Passivecomponentmagazine.com

k. Eetimes.com

l. Ebonline.com

All banner ads will include an embedded link to the website www.capacitorsindirectcase.com. The banner ads will include generic images of capacitors to increase the visibility of the ads.

6. IPPs' notice provider shall cause banner ads to be run in the e-newsletter *Nuts and Volts*, which is mailed to approximately 40,000 subscribers.

- 1 7. IPPs' notice provider shall publish notice in selected trade e-newsletters.
- 2 8. IPPs' notice provider shall implement earned media, including dissemination of a news
- 3 release via Business Wire which will be distributed to more than 10,000 newsrooms,
- 4 including print, broadcast and digital media across the United States.
- 5 9. Publication notice shall commence on or before January 16, 2017, and be completed on
- 6 or before February 25, 2017. The notice provider shall also cause a copy of the class
- 7 notices and Settlement Agreements to be posted on the internet website
- 8 www.capacitorsindirectcase.com on or before January 16, 2017.
- 9
- 10 10. Each member of the settlement classes shall have the right to be excluded from the
- 11 settlement classes by mailing a request for exclusion to the claims administrator to be
- 12 postmarked no later than March 17, 2017. Requests for exclusion must be in writing
- 13 and set forth the name and address of the person or entity who wishes to be excluded, as
- 14 well as any trade name or business name and address used by such person or entity, and
- 15 must be signed by the class member seeking exclusion. No later than March 24, 2017,
- 16 IPP Class Counsel shall file with the Court a list of all persons or entities who have
- 17 timely requested exclusion from the settlement classes as provided in the Settlement
- 18 Agreement.
- 19
- 20 11. Any member of the settlement classes who does not properly and timely request
- 21 exclusion from the settlement classes as provided above shall, upon final approval of
- 22 the settlement, be bound by the terms and provisions of the settlement so approved,
- 23 including but not limited to the releases, waivers, and covenants set forth in the
- 24 Settlement Agreements, whether or not such person or entity objected to the Settlement
- 25 Agreements and whether or not such person or entity makes a claim upon the settlement
- 26 funds.
- 27
- 28

- 1 12. Each member of the settlement classes who has not timely excluded itself from the
2 settlement shall have the right to object to (1) the settlement and/or (2) the plan of
3 allocation by filing written objections with the Court no later than March 17, 2017.
4 Failure to timely file written objections will preclude a class member from objecting to
5 any or all of the settlement.
- 6 13. Each member of the settlement classes as provided above shall have the right to appear
7 at the Fairness Hearing by filing a Notice of Intention to Appear no later than March 17,
8 2017.
- 9 14. The Court will conduct a Fairness Hearing on _____. The
10 Fairness Hearing will be conducted to determine the following:
11 a. Whether the proposed settlements are fair, reasonable, and adequate and should
12 be granted final approval;
13 b. Whether final judgment should be entered dismissing with prejudice the claims
14 of the settlement classes against NEC TOKIN, Nitsuko, and Okaya; and
15 c. Such other matters as the Court may deem appropriate.
- 16 15. Each member of the settlement classes shall retain all rights and causes of action with
17 respect to claims against the remaining defendants other than NEC Tokin, Nitsuko and
18 Okaya regardless of whether such member of the settlement classes decides to remain
19 in the settlement classes or to exclude itself from the settlement classes.
- 20 16. All briefs, memoranda and papers in support of final approval of the settlement shall be
21 filed no later than April 11, 2017.
- 22 17. IPPs' Class Counsel and their designees are authorized to expend funds from the
23 escrow accounts to pay taxes, tax expenses, notice, and administration costs as set forth
24 in the Settlement Agreements.

1 This order terminates Docket Number ____.

2 IT IS SO ORDERED.

3
4 Dated: _____

5 _____
6 Hon. James Donato
7 United States District Judge
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28